

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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| KELLEY O'DONNELL, | : | CIVIL ACTION NO. 1:16-CV-1149 |
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| Plaintiff | : | (Chief Judge Conner) |
| | : | |
| v. | : | |
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| JUDITH ROWE, R.N., C.O RAUP, C.O. STETTLER, SECURITY CAPT. WALTMAN, SUPERINTENDENT ROBERT SMITH, CORRECT CARE SOLUTIONS, AND DR. CYNTHIA FREELAND, | : | |
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| Defendants | : | |
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ORDER

AND NOW, this 24th day of September, 2018, upon consideration of the report (Doc. 90) of Chief Magistrate Judge Susan E. Schwab, recommending that the court grant in part and deny in part the motion (Doc. 61) of defendants Correct Care Solutions, LLC (“LLC”) and Dr. Cynthia Freeland (“Freeland”), wherein the moving defendants seek dismissal of the claims asserted against them by *pro se* plaintiff Kelley O’Donnell (“O’Donnell”) in her second amended complaint, and further recommending that O’Donnell be granted leave to amend, see Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002), and it appearing that O’Donnell has not objected to the report, see FED. R. Civ. P. 72(b)(2), and the court observing that failure of a party to timely object to a magistrate judge’s conclusions “may result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should

“afford some level of review to dispositive legal issues raised by the report,” Henderson, 812 F.2d at 878; see also Taylor v. Comm’r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int’l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following independent review of the record, the court being in full agreement with Judge Schwab’s recommendation,¹ and the court thus concluding that there is no error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 90) of Chief Magistrate Judge Schwab is ADOPTED.
2. The moving defendants’ motion (Doc. 61) to dismiss is GRANTED to the extent that O’Donnell’s Monell claim against Correct Care is DISMISSED without prejudice. The motion (Doc. 61) is DENIED in all other respects.
3. The Monell addendum (Doc. 108) filed by O’Donnell and authorized by Chief Magistrate Judge Schwab’s report is ACCEPTED by the court as a supplement to O’Donnell’s second amended complaint (Doc. 50) and is made a part thereof by this order.
4. Defendants shall respond to O’Donnell’s second amended complaint (Doc. 50), as supplemented by her Monell addendum (Doc. 108), in accordance with the Federal Rules of Civil Procedure.

¹ Judge Schwab recommended that O’Donnell be granted leave to amend her pleading as to her Monell claim against Correct Care. (Doc. 90 at 19). Judge Schwab also recommended that O’Donnell’s counseled second amended complaint (Doc. 50) remain the operative pleading and that O’Donnell be directed to submit any supplemental allegations by way of an “addendum” to her second amended complaint. Judge Schwab set forth three specific limitations on the authorized filing: (1) that the filing be limited in length to three pages; (2) that it be limited in scope to the Monell claim against Correct Care; and (3) that it be styled as an “Addendum” containing the docket number of this case. (Id.) On September 14, 2018, O’Donnell submitted a two-page document titled “ADDENDUM/Monell.” (Doc. 108). The court construes this filing as O’Donnell’s amendatory addendum.

5. O'Donnell's motion (Doc. 105) "for expansion of time for brief in opposition/addendum for defendants Correct Care Solution motion to dismiss" is DENIED as moot.
6. This matter is REMANDED to Chief Magistrate Judge Schwab for further pretrial management.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania